

1962

CONGRESSIONAL RECORD — SENATE

1687

the tumbled splendor of the Rockies, the wild coast of Maine, or the warm, sunny beaches of California without having to apply for a passport or ask for permission.

My father is president of his local electrical union where they are free to bargain for higher wages or improved working conditions. I can choose between a movie or a football game; my family can purchase all types of clothes from Bermuda shorts to the most beautiful of formals.

Freedom of press, freedom of religion, freedom of speech, freedom of choice, the right to vote—all freedoms are made possible only through democracy.

Yes, democracy is voting in November, going to the church of our choice, speaking for what we feel is right, and being able to decide what we will read, see, hear, and do. But it is more than this. It is also the shout of a crowd as their team makes the final touchdown; it's the glow in the eyes of a little girl as she sits on Santa's knee; it's the joy on a 3-year-old's face as he pretends that he's a boat in a mud puddle. It is the tender look on a mother's face as she gazes at her new-born child. She knows his future is insured because he was born in a free democratic country.

Countless times throughout our history we have defended our rights and the rights of other people to be free, but the job is far from done. To further protect and insure the future of every baby, now and yet to come, we must continuously speak for democracy. Yes, we must act for democracy. For only through our democratic processes come the guarantees of rights, liberty, and freedom. Our freedom is a give-and-take process, a mutual agreement among Americans to pursue happiness as long as it doesn't infringe on the rights of others.

Yes, our country is a great country and it presents a great hope to the Communist-held world.

"Always remember," the young Russian continued, "They aren't fooling us about you Americans. We want to be your kind of world."

Freedom is our heritage. Freedom is our opportunity. Freedom is our job.

THE PRESIDENT'S MESSAGE ON EDUCATION

Mr. JAVITS. Mr. President, I wish to make some comments on the President's education message of yesterday, as I am a member of the Subcommittee on Education of the Senate Committee on Labor and Public Welfare.

It seems to me that it should be made clear where this problem really rests, and I do not think that merely sending a message to the Congress excuses the situation in which we find ourselves. The reason why we do not have Federal aid to public primary and secondary schools and for teachers' salaries, which the President says is an urgent national need, is that the overwhelming majority in the other body will not give it to us. That is what the situation is, very simply and bluntly.

It has been possible here in this body to have Federal aid to education legislation, and under the leadership of the majority leader, we passed a bill yesterday which I consider to be a splendid bill. We have had a bill for primary and secondary school assistance on the part of the Federal Government. It has bogged down in the other body, and I do not think one can disguise the fact that it has bogged down because

the Democratic majority does not deliver on it.

There is such a thing as outstanding Presidential leadership that has been shown. It has to be shown now, and a message is not enough. I say that in all honesty and candor. I am not known in this Chamber for partisan attacks. I think this is one situation where the responsibility cannot be left out of consideration because there are Republicans on the Rules Committee or some other place in the other body who may not be sympathetic to or do not like the legislation.

The point is that if the President is going to write messages telling us how urgent this need is, I think he must also exercise effective leadership in his party, which has the overwhelming majority in the other body, to bring about such legislation. Merely sending messages is not enough.

I ask unanimous consent to include in the RECORD with my remarks the editorial entitled "School Aid: New Perspective," which appeared in the New York Times, February 7, 1962.

There being no objection, the material was ordered to be printed in the RECORD as follows:

SCHOOL AID: NEW PERSPECTIVE

President Kennedy has put the needs of American education in their proper perspective. In his message to Congress he has cut through the confusion created by a succession of smokescreens with which special interests have obscured the picture. The heart of the matter, and of the President's message, is that elementary and secondary schools are the foundation of our educational system.

It therefore follows that there is little value in our efforts to broaden and improve our higher education, or increase our supply of such skills as science and engineering, without a greater effort for excellence at this basic level of education.

No expediency of political tactics in the past was ever able to persuade us that this essential priority should or could be denied. Now the President, in an eloquent description of the entire educational panorama, has underlined his own conviction that the priority is too urgent to permit postponement or compromise. While adding that there may well be need for better coordination between existing Federal programs, he has given warning to some of his lukewarm managers in Congress that such reforms cannot be permitted to defer action on meeting our current needs.

President Kennedy makes it clear that Federal aid to education is not a question of convenient "either-or" legislation. He draws a portrait of a cohesive structure—from elementary school through graduate school and adult learning—in which the foundation must be made stronger while, at the same time, the peaks of excellence must be raised. He permits no choice between the need for adequate facilities and the need for better-educated teachers, paid in accordance with the importance of their tasks to the future of American society.

None of this detracts, as Mr. Kennedy stressed, from the urgency of aid to the colleges and universities if they are to cope with the expected doubling of enrollments by 1970. Nor can there be any doubt that Federal scholarships are also needed to keep open the path to higher education.

Those of the President's lieutenants who have tried to create the impression that the White House would bow to expediency and

let sleeping education-aid rest should take note of this new outline of national need and legislative priorities. Speaking of the public school bill that Congress failed to enact last year, the President said: "It is imperative that such a proposal carrying out these objectives be enacted in this session." It is now up to him to confound the prophets and follow through with all his vigor on the political battle he is inviting. We hope to see the continued leadership in this field we have long been looking for.

Mr. ELLENDER. Mr. President, what does the Senator suggest that the President do?

Mr. JAVITS. If my colleague will allow me, I will tell him what.

Mr. ELLENDER. Does he suggest force or coercion or maybe the use of a big stick?

Mr. JAVITS. No. I suggest the President call in the key Members of the other body and lay before them with the greatest urgency that he considers it indispensable to the success of his administration to have this legislation considered in the other body. Many Presidents have done that with considerable success in the past. I am not sure this President would not be as successful. I only suggest that sending us a message, telling us how urgent such legislation is, is not enough.

Mr. ELLENDER. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. ELLENDER. I do not know what happened since early last month, but it is my understanding that the President does meet with the leaders of our party from both the Senate and House of Representatives. I am sure that the matters of which the Senator speaks have been discussed. Does the Senator expect the President to do anything further?

Mr. JAVITS. I do not know what the President has discussed with the leaders. I do not know of the intensity of the conviction he has expressed. I saw him be very effective in this Chamber when he was one of us. I think he can be with the Members of the other body.

Let me say that I do not think there is any lack of good faith on the part of the President, but I think it is the duty of those of us who have convictions in such issues, as I do in this, to stimulate, urge, and push things forward. That is what I am trying to do this morning. But that is not done merely by sending messages.

There is an enormous opportunity, which is not referred to in the message, and which I hoped the President would refer to, and discuss, and that is getting the business community to increase its gifts to colleges and education generally. The business community has great potential in that regard. It represents a great effort if the potential is utilized. Here is one of the most important areas where it can help education, especially higher education.

Mr. MANSFIELD. Does the Senator want the President to crack the whip over the Congress and business, too?

Mr. JAVITS. I did not say any such thing, Mr. President.

1688

CONGRESSIONAL RECORD — SENATE

February 7

Mr. MANSFIELD. That is the implication.

Mr. JAVITS. No, that is not my implication, either.

I merely point out that this is an area in which very considerable additional help may be obtained for education. I direct attention to it. It is always the wonderful thing when a President will give voice to what could be another national resource. I do not say that at all in the same spirit I use with respect to the President's leadership of his own majority in the Congress.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MANSFIELD. I would say that the President has been quite vigorous in his views on education and on other matters, such as urban affairs and the like, in expressing what he wishes to have the Democratic majority do. May I ask my friend from New York, what was the attitude of the Republicans on the House Rules Committee relative to education and measures affecting that field?

Mr. JAVITS. I anticipated my colleague. Perhaps he did not listen very closely when I said that certainly there were Republicans on the Rules Committee in the other body, and many other Republicans in the other body, who are vigorously opposed to Federal aid to education. I was only pointing out that an administration is composed not only of the President but also, if it has it, of its majorities in the Congress. Therefore it is not enough—and I repeat—to send messages. There is also a question, in terms of evaluating the success of an administration, as to what its majorities in the Congress do and how they perform.

I am not recommending the cracking of a whip over anybody on any subject. I am only questioning the responsibility. As I think has already been indicated so far in this debate, it is very easy to throw the responsibility on the opposition party, which is the Republicans in this case.

Mr. MANSFIELD. That is exactly what the Republicans are doing to us.

Mr. JAVITS. I know, but the Democrats are deserving of it. The Democrats won the election for President.

Mr. MANSFIELD. But we cannot get the Republican votes on the Rules Committee.

Mr. JAVITS. The Democrats have great majorities in the Congress. They have 10 to 5, on the Rules Committee in the other body.

Therefore, if the majority party or the administration is divided, let the country know it. Let the country not be confused and led astray by the fact that the President, with fine ideas, is merely sending a strong message to the Congress that he wants something done.

FEDERAL AID TO THE ARTS

Mr. JAVITS. Mr. President, I note with great interest the recommendation by the President for Federal aid to the arts. I thoroughly agree with it. In-

deed, I am a cosponsor of the bill for a Federal advisory council on the arts.

I wish to point out, however—and I hope this will have really serious attention from all of our colleagues—that culture is no longer a matter for parlor discussion and parlor interest. Culture is now a critical element in the evaluation of a country in the world and in the cold war. Therefore, the times have passed by what is a very mild proposal for a Federal advisory council on the arts, which is the beginning that we should have taken 5 years ago.

In my opinion, we now have to do something far more practical and far more affirmative than that in order to marshal our cultural resources. So, Mr. President, I urge very much that there be hearings held by the Committee on Labor and Public Welfare, of which I am a member, which is charged with this responsibility. I urge that hearings be held upon the whole group of bills on this subject.

We in the Senate at least should not be content with an advisory council, which will take us to where we should have been 5 years ago, but we should seek to do something very affirmative, whether it be with respect to my bill for a U.S. Arts Foundation, or the bill introduced by the Senator from Pennsylvania [Mr. CLARK], or any other one of a number of other bills. We must do something affirmative to marshal the cultural resources of the country both in terms of meeting domestic needs, for which present efforts are far under par, and very particularly in terms of our international posture in this field.

WIRETAPPING

Mr. McCLELLAN. Mr. President, the Attorney General on February 1 sent a letter to the President of the Senate wherein he pointed out the problems confronting law enforcement officials due to the present conflicts between State and Federal law in the area of wiretapping.

The Attorney General further suggested the need to prevent indiscriminate wiretapping, which seriously threatens individual privacy, and the need to establish a controlled use of wiretapping by all law enforcement officials.

By request, Mr. President, for myself, the senior Senator from Mississippi [Mr. EASTLAND], and the senior Senator from North Carolina [Mr. ERVIN], I introduce, for appropriate reference, a bill in conformity with the views expressed by the Attorney General, which would prohibit wiretapping by persons other than duly authorized law enforcement officials engaged in the investigation or prevention of certain specified criminal offenses.

Mr. President, I may say, for myself and on behalf of the cosponsors with me on the measure, that our sponsorship of the bill does not necessarily imply that we agree with or that we shall finally support all of the provisions contained in the bill. I am in agreement with the general objectives of the proposed legislation, and I feel that the bill will serve as the basis for a continued study, and

I hope constructive and effective action in the field of wiretapping, by the appropriate Senate committee.

Accordingly, Mr. President, I ask unanimous consent that the aforementioned letter from the Attorney General to the President of the Senate, along with a section-by-section analysis of the proposed bill, be printed in the Record.

There being no objection, the letter and analysis were ordered to be printed in the Record, as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 1, 1962.

THE VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: There is attached for your consideration and appropriate action a legislative proposal to prohibit wiretapping by persons other than duly authorized law-enforcement officers engaged in the investigation or prevention of specified categories of criminal offenses, and for other purposes.

For many years the problems presented by wiretapping have been matters of concern to the public, the Congress, the judicial and executive branches of Government, State legislatures and law-enforcement officials, and the bar. Existing law has proved ineffective, both to prevent indiscriminate wiretapping which seriously threatens individual privacy, and to afford a clear cut basis for the legitimate and controlled use of wiretapping by law-enforcement officials. The public has been concerned and apprehensive because of the increasing and widespread use of wiretapping by private individuals for personal gain.

The present situation is unsatisfactory. This is highlighted by the fact that State and local prosecutors are now faced with the dilemma that the exercise of wiretapping authority conferred by State law may violate Federal law. The courts have indicated it would be a violation of section 605 of the Federal Communications Act to divulge wiretap evidence in a State court, even if the wiretap was authorized by State law. Nevertheless Federal courts have refused to restrain the introduction of wiretap evidence in a State court or to reverse a conviction based on such evidence.

Moreover, the inadmissibility of wiretap evidence in Federal courts under current law has prejudiced the enforcement of Federal statutes designed to protect the national security. Every Attorney General for the past 25 years has authorized wiretapping by Federal agencies in particular cases involving the national security.

Use of wiretapping by law enforcement officials under specified controls would serve also to implement the renewed Federal effort to combat organized crime. As recognized by Congress during the past session, the unrestricted utilization of interstate facilities such as the telephone by large-scale criminals presents a problem of paramount national concern. Investigation has documented the ease with which leading racketeers can insulate themselves from their illegal operations and rely on this Nation's elaborate communications system to direct such activities. To deny law enforcement officers the right to monitor telephone communications is to permit our Nation's vast communications network to be used as an irreplaceable tool of the underworld.

The Congress has had numerous wiretapping proposals before it in recent years, including a number of bills introduced in the present Congress on which extensive hearings have been held. In preparing the present bill we have given most careful consideration to these bills and to the hearings and other published discussions on them.

1690

CONGRESSIONAL RECORD — SENATE

February 7

of specified categories of criminal offenses, and for other purposes, introduced by Mr. McCLELLAN (for himself and other Senators), was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I am glad to yield.

Mr. HRUSKA. I wish to invite the attention of the Senate to the fact that last year there were public hearings on a wiretapping bill, somewhat narrower in scope than the bill to which the Senator refers, which he is introducing. I wish to ask the Senator from Arkansas whether it is contemplated there will be public hearings on the bill which he is introducing, or whether it will be considered that the hearings held last year are sufficient, or whether an attempt will be made to have the hearings previously held serve as the basis for reporting the presently introduced bill without further public hearings?

Mr. McCLELLAN. It is not within my province to say whether there shall be hearings on a bill which I am presently introducing, or whether there shall not be. My own personal view is that the hearings already held, together with any additional hearings the committee to which the bill is referred may determine to be desirable, will be a part of the record for the information and consideration of this body if and when a bill comes to the Senate for debate and passage.

Mr. HRUSKA. The bill introduced today is of much wider scope than the previous bill. The Senator from Nebraska feels that public hearings would be very desirable because of that fact. Sometimes we like to be assured that the introducer of a bill would be in sympathy with hearings on a bill, because of that fact.

Mr. McCLELLAN. I say to my distinguished colleague, who is also a member of the Committee on the Judiciary with me, that I shall join him in seeking hearings on the bill. I do not think I have ever introduced a bill as to which I was not willing to have, or did not in most instances seek, hearings.

I should think that any hearings which have been held on this subject on any particular bill by the committee at any time, certainly within the recent past, may well be considered as a part of the record on any bill the committee finally may report, if it reports a bill.

Mr. HRUSKA. To that I would fully subscribe. However, the hearings held in the first session of this Congress pertained to a bill which would have extended authority to and enabled State legislatures to legislate in this field subject to certain Federal law requirements. Therefore, the bill was much narrower in scope, and hence the necessity for additional public hearings.

Mr. McCLELLAN. My friend from Nebraska will have my support. If he is asking me to join with him to request hearings on the bill, I will join with him. I cannot determine in advance what the Judiciary Committee may do. I would think there would be no objections to hearings on the bill.

I may say further that in introducing the bill I made reservations. There might be provisions in the measure that I would not support or that I would want to see modified or changed. But I want the RECORD to show that, without any reservation or equivocation, I favor some legislation in this field because the criminal elements in our country today are getting by with crime after crime after crime. It is apparently impossible to reach those who are committing such crimes without a stronger process of law in order to get the evidence against them that is necessary.

If we talk about the principle of wiretapping, I take the view that we have a proper search and seizure law which enables a search and seizure in the premises of citizens of this country. I do not see that wiretapping would do any more violence to individual liberty and freedom than the law permitting a proper search and seizure, if the wiretapping procedure is conducted under equally careful judicial supervision. I support the general principle.

Mr. KEATING. Mr. President, will the Senator yield?

Mr. McCLELLAN. I am glad to yield.

Mr. KEATING. I want to say first that the Senator from Arkansas has been of great assistance in the effort to report out of the Subcommittee on Constitutional Rights a very limited wiretapping bill to permit wire tapping by the States with strict safeguards. The district attorneys of many New York counties and district attorneys throughout the country are grateful to the distinguished Senator from Arkansas for lending his assistance in this way.

The thing that somewhat worries me about the administration's 11th hour wiretapping bill is that it may interfere with the very limited measure (S. 1086) which I introduced and which has been reported favorably by the Constitutional Rights Subcommittee and is now on the agenda of the full Judiciary Committee.

This bill would not have any effect on States that do not now permit wiretapping. As the Senator from Nebraska has so ably said, it is designed merely to provide that in those States which permit wiretapping, and under stringent Federal restrictions specified in this bill, they may continue to do so.

The situation which the public faces in New York State is a really serious one. The district attorney of New York County recently had to ask that a large group of defendants charged with the most vicious narcotics crimes be discharged because some of the evidence against them was obtained by wiretapping. A large gambling prosecution in upstate New York had to be dismissed for the same reason.

As the Senator from Arkansas has said, there is no more reason that a telephone should be a privileged instrument for criminals than a home or a man's pants pocket, all of which can be searched under the proper conditions.

Mr. McCLELLAN. If the Senator will forgive me for interrupting, a telephone conversation should be no more sacred than a man's cabin or his home.

Mr. KEATING. The Senator is correct.

There is one really serious defect in the Attorney General's proposed wiretapping bill, with regard to State wiretapping. I refer to the omission of a crime which I am sure the Senator would agree is of great importance. It is one of the principal ones in which hoodlums and the organized mobs engage; namely, gambling. All of the evidence before us was that illegal gambling, narcotics, prostitution, and bootlegging are the crimes in which organized syndicates are most active and where it is most essential, as conveyed to us by prosecuting attorneys, that some provision be made to get needed evidence by wiretapping.

Mr. President, I want to stress that many States are opposed to wiretapping. This limited bill (S. 1086) would in no way affect them. I am glad that the Senator from Arkansas has stated that in his opinion hearings should be held, because certainly our hearings to date have not covered many of the points that are involved in this rather comprehensive legislation which he has just offered.

This bill, originally suggested by the Attorney General, has much good in it. But I do hope the introduction of this new bill will not interfere with the progress of the more limited bill which has already been reported by the subcommittee.

Mr. McCLELLAN. The Senator from Arkansas has no intention of saying that the bill introduced is the only bill, or to agree with all of its provisions. The bill undertakes, as I interpret it, and as I think it is intended, to leave the States free. They do not have to have any wiretapping law at all. But if States do have such a law, then such law must in general conform with the Federal law. In other words, Federal Government action in this field could be interpreted by the courts as preempting any authority of the States to so act, unless some dispensation is given to the States, as is provided in the bill, and as I am sure is contained in the Senator's bill to which he referred.

RESIDUAL OIL IMPORT CONTROLS ARE NOT CREATING ELECTRIC POWER SHORTAGE; AMPLE FUELS AVAILABLE

Mr. RANDOLPH. Mr. President, the campaign by certain groups to bring an end to controls on imports of residual fuel oil continues unabated. It is regrettable that those who want the Federal Government to do away with all residual oil import restrictions—and permit an unlimited flow of this foreign produced fuel into ports of entry along the east coast—have now resorted to pressure tactics in an effort to induce the President to rescind the quota system limiting oil imports.

The matter of import controls on residual oil is much too important and far-reaching to be decided on the basis of scare headlines. Involved here are the security of the vital eastern region of the United States and the economic health and vigor of the domestic fuels industries. Whatever decision is made should be made upon the basis of a calm, careful and deliberate study by respon-

1962

CONGRESSIONAL RECORD — SENATE

1689

The attached legislative proposal outlaws all private wiretapping and all wiretapping by law enforcement officials which does not conform to the limited authority which the bill grants. Violators would be subject to fine of not more than \$10,000 or 2 years imprisonment or both. At present the interception and divulgence of a wire communication is prohibited by Federal law. This proposal would prohibit the interception of a wire communication or the disclosure or the use of the intercepted information. The proposal would also make certain that neither the information obtained from an unauthorized interception, nor any evidence derived therefrom would be admissible in evidence in any judicial, administrative or legislative proceeding of the Federal Government or the States.

The bill would authorize Federal law enforcement agencies to tap wires to obtain evidence of the commission of certain specified major offenses. Such authorization would be obtained by court order. In addition to the court order method, the Attorney General could authorize wiretapping in certain cases involving treason, espionage, sabotage, subversion, and unauthorized disclosure of classified atomic energy information. In following this procedure the Attorney General would be required to find that a serious threat to the security of the United States existed and that resort to the court order procedure would be prejudicial to the national interest.

Wiretaps by State law enforcement officers would be permitted only in States which adopt a statute authorizing the court order procedure as set forth in this bill. If a State does have an appropriate statute, then the attorney general of that State or the principal prosecuting attorney for any political subdivision may apply for permission to wiretap in the investigation of the crimes of murder, kidnaping, extortion, bribery, or narcotics.

Responsibility under the bill is centralized. Each application to a Federal court must be authorized by the Attorney General or an Assistant Attorney General. An application to a State court must be made by the State attorney general or the chief prosecutor of a county, city, or other political subdivision of the State. All Federal and State applications and orders must be reported to the Attorney General and the Administrative Office of the U.S. Courts, and an annual report must be made to the Congress.

The bill limits the disclosure and use of the information received by reason of a lawful interception. Procedural safeguards are specified for the application for a wiretap and the findings which must be made by the judge prior to granting leave to wiretap, and time limits are placed on wiretap orders. Provision is made for motions in Federal courts to suppress evidence obtained or derived from a wiretap which was not lawfully authorized or carried out.

In summary, the present law with respect to wiretapping is chaotic; the right of privacy is not being protected and law enforcement agencies are being hampered unduly. Therefore, to clarify the law, protect the privacy of our citizens, and give law enforcement agencies another tool—with strong safeguards—to combat subversive activities and organized crime, I urge the early introduction and enactment of this legislative proposal.

The Bureau of the Budget has advised that this proposal is consistent with the program of the President.

Sincerely,

ROBERT F. KENNEDY,
Attorney General.

SECTION-BY-SECTION ANALYSIS OF DEPARTMENT OF JUSTICE WIRETAPPING PROPOSAL SUBMITTED IN THE 2D SESSION OF THE 87TH CONGRESS

Section 2 contains legislative findings.

Section 3 provides that it shall be a felony, punishable by a fine of not more than \$10,000 or imprisonment for not more than 2 years or both, for a person willfully to intercept, disclose or use the contents of any wire communication except as specifically authorized by the act. However, it shall not be unlawful for a switchboard operator, or any telephone company employee, to intercept, disclose, or use a wire communication in the normal course of his employment while engaged in any activity which is a necessary incident of the rendition of service.

Section 4 provides that no part of the contents of an unlawfully intercepted wire communication and no evidence derived therefrom may be received in evidence in any judicial, administrative, legislative, or other proceeding of the United States, or of any State or any political subdivision thereof.

Section 5 establishes procedures by which certain interceptions by law enforcement officers may be authorized.

For cases involving certain felonies affecting the national security—espionage, sabotage, treason, sedition, subversive activities, and unauthorized disclosure of atomic energy information—alternative procedures are provided. The Attorney General or an Assistant Attorney General may authorize an application to a Federal judge of competent jurisdiction for leave to permit the Federal Bureau of Investigation to tap wires. Alternatively, the Attorney General may authorize such wiretapping himself if he finds that the commission of the offense presents a serious threat to the security of the United States and that resort to the court order procedure would be prejudicial to the national interest.

Wiretapping may be authorized for certain other Federal crimes by court order upon application authorized by the Attorney General or an Assistant Attorney General. The Federal crimes for which such wiretapping is authorized are: murder, kidnaping, or extortion under title 18 of the United States Code; any offense under 18 U.S.C. 201, 202 (bribery), 18 U.S.C. 1084 (transmission of gambling information), 18 U.S.C. 1952 (travel or transportation in aid of racketeering enterprises); any offense involving violations of the Federal narcotic law; and any conspiracy to commit any of those offenses.

The attorney general of any State or the principal prosecuting attorney for any political subdivision thereof, if authorized to do so by State statute, may petition a State judge for leave to wiretap for the crimes of murder, kidnaping, extortion, bribery, or dealing in narcotic drugs or marijuana or any conspiracy involving those offenses.

Section 6 authorizes persons, who have lawfully received information concerning a wire communication which was lawfully intercepted in accordance with the act, to make limited disclosure and use of such information. Any Federal or State investigative or law enforcement officer may disclose such information to another Federal or State investigative or law enforcement officer if such disclosure is appropriate to the proper performance of the official duties of both the officer disclosing and the one receiving such information. An investigative or law enforcement officer may use such information for the proper discharge of his official duties. Any person may disclose such information while testifying in a Federal or State criminal trial or grand jury proceeding.

Section 7 contains the penalty provision.

Section 8 provides procedures for applications for, and issuance of, court orders on both the Federal and State levels. Each application for a court order must contain a complete statement of the facts relied on to show probable cause; the location and nature of the telephone facilities involved; and information concerning all previous wiretapping applications involving the same telephone or the same suspected criminal. The judge may require additional evidence in support of the application. The judge may issue an ex parte order to tap a telephone within the territorial jurisdiction of his court if he finds probable cause for belief that an offense for which an application to wiretap is authorized, has been, is being, or is about to be committed; facts concerning such offense may be obtained by the proposed interception; no other means are readily available for obtaining such information; the facilities to be tapped are used in the commission of the offense for which tapping is authorized, or are leased to, listed in the name of, or commonly used by a person suspected of that offense. The order must specify the nature and location of the facilities to be tapped; the crime as to which information is sought; the identity of the law enforcement agency authorized to tap; and the period of time for which such tap is authorized. No order may authorize a tap for any period exceeding 45 days; extensions of not more than 20 days each may be granted upon the findings referred to above.

Before the contents of an intercepted communication may be introduced in evidence in a Federal criminal trial the defendant must be served with a copy of the court order or other authorization for the wiretap. A defendant in a Federal criminal trial may move to suppress wiretap evidence on the grounds that: the communication was unlawfully intercepted; the order or other authorization was invalid; in the case of court order, there was no probable cause for issuance of the order; or the interception was not made in conformity with the order or other authorization. All applications made to a Federal or State court and all orders granted by such courts must be sealed and may only be made public by order of the court or as provided for in the act.

Section 9 requires copies of all of the applications made and orders issued under this act to be transmitted to the Administrative Office of the U.S. Courts and to the Department of Justice. The Administrative Office is instructed to report annually to the Congress.

Section 10 contains the definitions.

Section 11 amends section 605 of the Communications Act of 1934, 48 Stat. 1103; 47 U.S.C. 605 to delete the second and fourth clauses of section 605 (dealing with interception and divulgence), and to exempt from section 605 the procedures authorized by this act.

Section 12 contains a separability clause.

Mr. McCLELLAN. Mr. President, I also ask unanimous consent that the measure may lie on the desk for today and tomorrow so that any other Senators who may desire to do so will have the opportunity to have their names entered as cosponsors of the measure.

The ACTING PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will lie on the desk as requested.

The bill (S. 2813) to prohibit wiretapping by persons other than duly authorized law enforcement officers engaged in the investigation or prevention